



## KEY QUESTIONS TO POSE BEFORE YOU DISCLOSE

### SUBSTANCE ABUSE TREATMENT RECORDS

When is a patient authorization NOT required?

Who Must Comply?



Program

Emergency

Research

Court Order

Internal Communications  
by professionals for  
treatment, service, or  
prevention

Qualified Service  
Organization Communication

Required  
by Law

Crime on  
Premises

Community  
Mental Health  
Provider

Court Order

Required  
by Law

Emergency

Child Abuse

Elder Abuse

Internal Communications  
by professionals for  
treatment, service, or  
prevention

General  
Medical  
Facility

Court Order

Required  
by Law

Emergency

Child Abuse

Elder Abuse

Internal Communications  
by professionals for  
treatment, service, or  
prevention

Disclose  
What?

**Substance abuse treatment records:** Alcohol and drug abuse records, patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse; any information, whether in writing, orally, electronically, or by other means. **Disclosure:** A communication of records containing "patient identifying information" (PII). **PII:** Includes name, address, social security number, fingerprints, photographs or other information by which patient's identity can be determined with reasonable accuracy/speed identifying someone as having a past/current drug/alcohol problem and/or being a past or current patient in an alcohol/drug program.

**The Information Practices Act (Civil Code §§ 1798-1798.78) applies to state agencies. Staff should check with their legal office regarding permissive uses and disclosures under the IPA.**



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### SUBSTANCE ABUSE TREATMENT RECORDS

CalOHII does not provide advisory opinions or legal advice to private individuals. This document is intended to offer help to providers to know when an authorization for release of information is required before disclosing drug and alcohol treatment records.

#### What Is A:



Substance abuse program receiving state or indirect federal assistance is defined as: (a) An individual or entity (other than a general medical care facility) who holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or (b) An identified unit within a general medical facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or (c) Medical personnel or other staff in a general medical care facility whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers. (See 42 C.F.R. § 2.12(e)(1) for examples.)



Community mental health service provider as defined by Welfare and Institution Code §§ 5328-5328.9 is a state hospital; a general acute hospital, an acute psychiatric hospital, a mental health rehabilitation center, a skilled nursing facility with a special treatment program for individuals with mental illness.



42 C.F.R. Part 2 FAQ 1 (2011) Hospitals, trauma centers, or federally qualified health centers generally are “general medical care” facilities. A practice comprised only of primary care providers could be a “general medical facility.” But even in a general medical facility, a provider is only a Part 2 “program” if the provider works in an identified unit that provides and holds itself out as providing alcohol/drug related services or personnel/staff has “primary function” of provision of alcohol/drug related services.

#### In All Cases:

- ✓ Limit the disclosure to what is described in the authorization
- ✓ Validate the identity and authority of the individual requesting the information
- ✓ Account for the disclosure within the patients record as required by the HIPAA Privacy Rule
- ✓ Develop internal written procedures and train employees on the requirements
- ✓ Designate individual(s) to process disclosure requests

#### Want Other Important Terms to Know?

**Federal Assistance** - For this purpose, an alcohol or drug abuse program is considered to be federally assisted if it receives any federal funds, whether they are related to these services or not, is licensed, certified, registered or otherwise authorized by the federal government, receives IRS assistance through tax exemption or deductions for contributions, or is conducted directly by the federal government or by a state or local government that receives federal funds which could be (but are not necessarily) spent for alcohol or drug abuse programs. **Go to CalOHII's website for more tools and information:**  
<http://www.ohii.ca.gov/calohi/Home.aspx>